

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLETE REO HART,

Plaintiff,

No. CIV S-05-0691 DFL DAD P

vs.

DR. H. SOUFI, et al.,

Defendants.

ORDER

On June 14, 2005, this action was dismissed without prejudice for failure to exhaust administrative remedies before bringing the action. On June 17, 2005, plaintiff submitted a letter requesting reconsideration and asking the court to re-open the case. On July 19, 2005, plaintiff submitted a second letter reiterating his requests.

Requests for reconsideration are directed to the sound discretion of the court. See Frito-Lay of Puerto Rico, Inc. v. Canas, 92 F.R.D. 384, 390 (D.C. Puerto Rico 1981). A party seeking reconsideration of an order in this district must brief the “new or different facts or circumstances” which were not shown previously “or what other grounds exist for the motion.” Local Rule 78-230(k). This rule is grounded on the principle that decisions on legal issues made in a case should be followed unless there is substantially different evidence or new controlling authority, or the party demonstrates that the court’s prior decision was clearly erroneous and


1 resulted in injustice. See Handi Investment Co. v. Mobil Oil Corp., 653 F.2d 391, 392 (9th Cir.
2 1981); see also Waggoner v. Dallaire, 767 F.2d 589, 593 (9th Cir. 1985). A motion to reconsider
3 is not a vehicle by which an unsuccessful party can “rehash” arguments or present “contentions
4 which might have been raised prior to the challenged judgment.” Costello v. United States, 765
5 F. Supp. 1003, 1009 (C.D. Cal. 1991); see F.D.I.C. v. Meyer, 781 F.2d 1260, 1268 (7th Cir.
6 1986); Keyes v. National R.R. Passenger Corp., 766 F. Supp. 277, 280 (E.D. Pa. 1991).

7 Plaintiff’s requests for reconsideration rehash the futility argument advanced in
8 his complaint. Although plaintiff argues that he has submitted many grievances about an alleged
9 conspiracy involving the defendants and dozens of other prison officials, he offers no argument
10 or evidence that he submitted and exhausted a grievance on the specific claims alleged in this
11 action. Plaintiff’s requests for reconsideration do not present new or different facts or
12 circumstances which were not shown previously. Nor do plaintiff’s requests demonstrate that
13 this court’s order filed June 14, 2005, was clearly erroneous and resulted in injustice.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff’s June 17, 2005 request for reconsideration and to re-open the case is
16 denied; and
17 2. Plaintiff’s July 19, 2005 request for reconsideration and to re-open the case is
18 denied.

19 DATED: 5/9/2006

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23 DAVID F. LEVI
24 United States District Judge
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